

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, . Docket No. 13-53846  
MICHIGAN, .  
 . Detroit, Michigan  
 . September 23, 2015  
Debtor. . 4:30 p.m.  
 . . . . .

FURTHER HEARING RE. OBJECTION TO CLAIM NUMBER 3451  
OF KIM SPICER  
BEFORE THE HONORABLE THOMAS J. TUCKER  
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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1 THE CLERK: All rise. This court is now in session.  
2 The Honorable Thomas J. Tucker is presiding. You may be  
3 seated. The Court calls the case of the City of Detroit,  
4 Michigan, Case Number 13-53846.

5 THE COURT: All right. Good afternoon to everyone.  
6 Let's have entries of appearance for this matter starting  
7 with the city's counsel.

8 MR. KILPATRICK: Good afternoon, your Honor.  
9 Richardo Kilpatrick appearing on behalf of the City of  
10 Detroit Water and Sewerage Department, DWSD.

11 THE COURT: All right. Good afternoon.

12 MS. SPICER: Good afternoon. Kim Spicer, City of  
13 Detroit, DWSD.

14 THE COURT: All right. So good afternoon. This is  
15 a further hearing, as you both know, on the objection that  
16 was filed by the Detroit Water and Sewer Department to the  
17 claim filed by Mr. Spicer. The matter number or docket  
18 number is 8990. It's Claim Number 3451 of Mr. Spicer. We  
19 had a hearing, as you'll recall, back on April 8, I believe  
20 it was, initial hearing on this claim objection. The Court  
21 ordered some further briefing, a couple of rounds of it  
22 actually, and that has occurred, and I have reviewed the  
23 briefs and responses and various things filed after the April  
24 8 hearing regarding this claim objection. So let me begin by  
25 calling on Mr. Kilpatrick. What would you like to say?

1 MR. KILPATRICK: Well, initially, your Honor, I'd  
2 like to thank the Court for adjourning this matter over from  
3 the prior date. I apologize. It was misdocketed by my  
4 office, and I apologize to Mr. Spicer for any inconvenience  
5 it may have occasioned as well. I have nothing to add to the  
6 briefing -- in addition to the supplemental briefing that was  
7 done as requested by the Court in the April -- after the  
8 April 8th hearing and then subsequently at the beginning of  
9 June. I think that the papers adequately set forth the  
10 position of the department.

11 The last thing I would like to note is that even  
12 though this matter has been pending before the Court, no  
13 action has been taken by Mr. Spicer to date to further or  
14 perfect this claim. At minimum, we need a date certain for  
15 him to do whatever he's going to do to liquidate the claim so  
16 that there's some certainty before the distribution that's  
17 going to be made from the pool of funds which is currently  
18 being held for unsecured creditors as part of the plan of  
19 adjustment.

20 THE COURT: Well, I guess I'd like to get some  
21 clarification from you at this point of exactly what it is  
22 you're asking the Court to do with respect to your claim  
23 objection at this point. You saw, I'm sure -- I assume that  
24 you saw what happened with the city's objection to the claim  
25 of Richard Hall and the hearing -- the last hearing we had on

1 that and the settlement or the resolution of the claim  
2 objection with Mr. Hall. I assume you saw those things.  
3 You've not chosen to go down that path, and that's fine.  
4 There's no reason you need to in terms of settling this  
5 matter with Mr. Spicer in a similar way, but the issues  
6 there -- some of the issues were similar involving the claim  
7 of Mr. Hall. But with respect to your objection to the claim  
8 of Mr. Spicer here, as I recall from the April 8 hearing, you  
9 agreed during that hearing, I think correctly so, that your  
10 argument about timeliness -- the argument that you make that  
11 Mr. Spicer has failed to file a lawsuit within the required  
12 90 days after getting a right to sue letter from the EOC  
13 essentially means that his claim is time-barred. And I think  
14 you acknowledged in the April 8 hearing that would apply only  
15 to any federal claims, discrimination claims, a Title VII  
16 claim, and not to any state law claims that Mr. Spicer may  
17 have filed or want to pursue under Michigan's Elliott-Larsen  
18 Act or Michigan law, so if I'm recalling right, we have that  
19 sort of point that even if all your other arguments are well-  
20 taken, Mr. Spicer still has -- is not going to be barred by a  
21 favorable outcome on your claim objection from pursuing  
22 his -- filing suit on his Elliott-Larsen Act claim or claims  
23 to the extent he contends that he has any, so this wouldn't  
24 fully resolve the claim objection -- or the claim, in any  
25 event, necessarily. And you mentioned just a minute ago that

1 at a minimum you need a date certain for Mr. Spicer to do  
2 whatever he's going to do. I assume that if the -- what the  
3 city is looking -- or what the department is looking for here  
4 is -- among other things maybe, is some date certain by which  
5 Mr. Spicer must file a lawsuit in an appropriate  
6 nonbankruptcy court on whatever discrimination claims he  
7 wants to pursue, and -- for the purpose of liquidating those  
8 claims, and your position is that as we sit here today even  
9 that Mr. Spicer is not barred by the -- not by the automatic  
10 stay in the case but also not by the discharge injunction or  
11 the -- that's in the confirmed plan or in the statute from  
12 filing such a suit for the purpose of liquidating the claim  
13 only, not for the purpose of trying to enforce it against  
14 property of the city if he gets a judgment. So what exactly  
15 is it you want the Court to do today on this?

16 MR. KILPATRICK: I would like disallowance of the  
17 \$200,000-plus claim because it is not based upon anything in  
18 reality. I would suggest to the Court a practical resolution  
19 to this issue, that being to set a date certain for Mr.  
20 Spicer to do whatever he's going to do so that we can come up  
21 with an ascertainable amount, I mean with some certainty, of  
22 what his entitlement is to participate in the pool of -- the  
23 distribution from the estate.

24 THE COURT: Well --

25 MR. KILPATRICK: We are also resolving many issues

1 with AFSCME and a number of other employees, and if he wants  
2 to participate in that with Mr. Schwartz, that would be fine  
3 as well.

4 THE COURT: Well, let me hand you and Mr. -- for you  
5 and Mr. Spicer a copy of this to -- I'll be sure that you're  
6 both looking at the same thing when I ask you about this.  
7 This is a copy I'm giving to each of you that I printed up of  
8 the stipulation and the resulting order that was entered in  
9 July regarding the claim of Richard Hall and how that matter  
10 was -- the timeliness issue in that matter was resolved, and  
11 it's not exactly the same situation. I understand that. But  
12 in terms of this date certain point that you're making, is  
13 this the kind of thing you want the Court to order; that is,  
14 to rule that Mr. Spicer may file in an appropriate  
15 nonbankruptcy court any lawsuit in order to liquidate his  
16 claim -- his discrimination retaliation claim that's in his  
17 proof of claim and then setting a deadline, whether it's 45  
18 days or 30 days or whatever it may be, for him to do so or  
19 the consequence would be that his claim will be deemed time-  
20 barred with respect to the federal claims and perhaps even  
21 disallowed as to all the claims? Is that the idea?

22 MR. KILPATRICK: Yes, it is, your Honor.

23 THE COURT: So when you -- you said a minute ago you  
24 want disallowance of his claim because the 200,000-plus  
25 amount of his claim doesn't have any basis in reality.

1 That's really for -- to be determined in this process by  
2 which his claim is going to be liquidated through litigation,  
3 I guess, isn't it, unless it's settled by the parties?

4 MR. KILPATRICK: That's correct, your Honor.

5 THE COURT: Is that the idea? Okay. All right.

6 MR. KILPATRICK: But in any event, I don't want  
7 allowance of that claim as for participation purposes in the  
8 distributions.

9 THE COURT: Sure. Yeah. And I guess --

10 MR. KILPATRICK: Those distributions are in  
11 prospects at the beginning of next year, so, again, for all  
12 purposes, I don't want that to be allowed at this point until  
13 there is a determination of the actual amounts.

14 THE COURT: Sure. Well, okay. So what would you --  
15 what would you ask that I set as a date certain for Mr.  
16 Spicer to file his lawsuit for this purpose?

17 MR. KILPATRICK: Forty --

18 THE COURT: How much time do you want me to -- I can  
19 ask him what he wants, but how much time do you want me to  
20 give him?

21 MR. KILPATRICK: Forty-five days, your Honor.

22 THE COURT: Forty-five? So that's the amount of  
23 time Mr. Hall got in this order that I handed you both.  
24 Well, let me hear from Mr. Spicer for a moment about all  
25 this. Mr. Spicer, basically the situation is you have

1 this -- based on what -- as I understand it now at this point  
2 is you have -- you filed this proof of claim in the  
3 bankruptcy case. The department has objected to it. The  
4 procedure by which you need to -- you and the department need  
5 to litigate the claim in order -- we call it liquidating the  
6 claim; that is, to reduce it to a judgment. If you can't  
7 agree on a settlement of the claim between you and the  
8 department, you have to litigate it for the purpose of  
9 resolving, you know, who's right and how much -- and how much  
10 the claim is, so the idea is you would have to file a lawsuit  
11 in an appropriate nonbankruptcy court on your discrimination  
12 claim for the purpose of obtaining a determination -- a  
13 judicial determination in that lawsuit -- a judgment  
14 determining whether your claim is valid and, if so, the  
15 amount of your claim. And once you have done that, then your  
16 claim would be allowed in the bankruptcy case in whatever  
17 amount that nonbankruptcy court litigation determined the  
18 claim was valid in. If that litigation determines that the  
19 claim is not valid and you lose completely, then your claim  
20 would be disallowed in its entirety here, so that's the idea.  
21 There has to be a place and a process for you and the  
22 department to litigate this claim for purposes of fixing the  
23 claim. Is it a valid claim or isn't it, and, if so, what's  
24 the amount by which the claim would be allowed? And if you  
25 get your claim allowed in a specific amount, some specific



1 amount, at some point through that process, then it would be  
2 allowed in that amount in your bankruptcy case, and you would  
3 get a distribution, according to the confirmed plan, pro rata  
4 along with everybody else in your class, which I think is  
5 Class 14, based on the allowed amount of your claim compared  
6 to the allowed amount of all the other allowed claims.

7 Now, I know you're not represented by an attorney at  
8 least in this bankruptcy case, and I don't know if you've  
9 taken advantage of an opportunity you've had for many months  
10 now to get some legal advice from an attorney about all this,  
11 but I want to give you an opportunity to speak and say what  
12 you would like to say here. I am inclined to enter an order  
13 of the type that Mr. Kilpatrick has described in the hearing  
14 today, not one that disallows your claim at this point or  
15 allows it but, rather, one that sets the process and a  
16 deadline for you to file a lawsuit to get this claim  
17 litigated, so what do you want to say about this?

18 MR. SPICER: Well, all I can say is I got paperwork  
19 saying that it was going to go to the ADR process. Other  
20 claimants have gotten their okay for ADR process. Even in  
21 counsel's objection he writes that Mr. Schwartz and the City  
22 of Detroit purposely didn't send me one, so I don't know how  
23 it works, but if that's how it has to go, that's how it has  
24 to go. I was inclined that -- to believe that legally and  
25 morally and most of all ethically that they would have -- by

1 the attorney that they would have contacted me about these  
2 situations, which they failed to do so, and it's in his own  
3 write-up that they did fail to do so.

4 THE COURT: Well, I think what you're saying is that  
5 when this ADR process went forward, you weren't given notice  
6 of the ADR evaluation hearing --

7 MR. SPICER: Yes.

8 THE COURT: -- so you didn't attend because you  
9 didn't know about it --

10 MR. SPICER: The date.

11 THE COURT: -- I assume is what you're saying.

12 MR. SPICER: Right.

13 THE COURT: And the process went ahead without your  
14 input, and you would have liked to have been there and  
15 participated in that. Are you saying that you want some sort  
16 of ADR process to go forward on your claim now that would  
17 include your participation?

18 MR. SPICER: Yes. Yes, sir, I do, because it was  
19 omitted by counsel. Like I said. It's in his paperwork that  
20 they omitted to notify me of any of these processes.

21 THE COURT: All right. Now, let's assume that  
22 happens. And I'm going to ask Mr. Kilpatrick if he -- what  
23 he thinks about that, doing that again now essentially, but  
24 assuming either that doesn't happen or it happens and you  
25 don't settle, you're going to have to file a lawsuit --

1 MR. SPICER: Yes, sir.

2 THE COURT: -- against the city in order to  
3 liquidate the amount of the claim, as I said, unless at some  
4 point you and the department reach a settlement -- an agreed  
5 settlement that would settle the amount of the claim --

6 MR. SPICER: Yes, sir.

7 THE COURT: -- to be allowed. So you're going to --  
8 you may have to at some point file suit, and it may be fairly  
9 soon, file a lawsuit. Whether you do that with the help of  
10 an attorney or not is going to be up to you. You have a  
11 right, of course, to hire any attorney of your choosing to  
12 represent you not only in this bankruptcy case but in filing  
13 such a lawsuit -- a discrimination lawsuit, but you also have  
14 a right to do that without an attorney. It's going to be up  
15 to you how you do that. All right. Anything else you want  
16 to say before I ask further questions of Mr. Kilpatrick?

17 MR. SPICER: No, sir, your Honor.

18 THE COURT: Mr. Kilpatrick, what about this ADR  
19 process? I hear Mr. Spicer saying he'd like to go through  
20 that and participate in it. Is that something that's  
21 possible at this point, feasible, worth doing?

22 MR. KILPATRICK: Your Honor, I don't think that it's  
23 feasible at this point, and I really don't have authorization  
24 from the department to agree to that type of resolution. I  
25 know that Mr. Schwartz is in the process, again, of

1 negotiating with various parties. There were a number of  
2 claims that weren't addressed as part of the plan that belong  
3 specifically to the department, and he's trying to liquidate  
4 those claims. I can -- I'm willing to find out if the  
5 department is willing to include this claim as part of that  
6 claims resolution process, but, again, I cannot agree to and  
7 I don't think that it's practical to do the ADR.

8 THE COURT: This claims resolution process that's  
9 going on now, is that something different than the ADR  
10 procedures under the ADR order?

11 MR. KILPATRICK: Yes, it is. Yes, it is.

12 THE COURT: Okay.

13 MR. KILPATRICK: It's actually a sort of mediation  
14 facilitation type process just to work through the claims  
15 quickly. People know that they're going to get pennies on a  
16 dollar, and rather than waste more money, people are taking  
17 very practical -- and as you see, I'm taking a very practical  
18 approach to this rather than making legal arguments today.  
19 Let's set a time certain. Let's get it moving so that  
20 whatever small amount is paid out of the pool is paid and get  
21 the claim allowed. That's what Mr. Schwartz is doing.  
22 Again, I will make the inquiry and encourage both Mr. Spicer  
23 and Mr. Schwartz to work together to come to -- to have  
24 whoever is working with him to facilitate those claims  
25 facilitate this one as well, but I --

1           THE COURT: I guess the idea is -- perhaps what  
2     you're -- part of what you're thinking is if we just -- if I  
3     just enter an order today that requires Mr. Spicer to file  
4     suit within 30 -- within 45 days, as you've suggested, you  
5     still have the question, well, if he files suit or even  
6     before he has to file suit, what are the parties going to do  
7     to try to talk to each other to try to resolve this without a  
8     lot of litigation expense? And you're saying that sort of  
9     consideration will happen whether the Court orders some sort  
10    of mediation or ADR process now or doesn't --

11           MR. KILPATRICK: Correct.

12           THE COURT: -- right? And so you're suggesting that  
13    the Court should just leave that piece of it alone and at  
14    this point just order this 45-day deadline for filing suit.

15           MR. KILPATRICK: That's correct.

16           THE COURT: Is that the idea?

17           MR. KILPATRICK: That's correct, your Honor.

18           THE COURT: So I'm just kind of looking at this  
19    order involving Richard Hall as a sort of blueprint for the  
20    kind of order that you're suggesting today. Again, it's not  
21    exactly the same, but should we follow that pattern, or would  
22    you want to say something different in the order other  
23    than -- I mean you've got, for example, in this Richard Hall  
24    order, which, for the record, is on the file -- in the file  
25    at Docket Number 10102 in this case -- I guess would you want

1 this pattern, paragraphs one through three, something like  
2 this or parallel to this said regarding Mr. Spicer's claim?

3 MR. KILPATRICK: Paragraph one is sort of difficult.  
4 I would like it to read that the Court is going to hold its  
5 ruling in abeyance pending actions to be brought by Mr.  
6 Spicer.

7 THE COURT: So hold it in abeyance?

8 MR. KILPATRICK: Yes.

9 THE COURT: You mean what? Set it -- see, if you  
10 want to keep it pending, I guess the -- I would -- instead of  
11 just adjourning it without date, I would want to adjourn it  
12 to a date specific. It can be one --

13 MR. KILPATRICK: In six months. Six months.

14 THE COURT: -- quite a way down the road, but we  
15 could do that rather than withdraw it at this point if that's  
16 what you're saying.

17 MR. KILPATRICK: That's correct, your Honor.

18 THE COURT: So something like adjourn it for further  
19 hearing to be held -- you said six months.

20 MR. KILPATRICK: Yes.

21 THE COURT: So something like that for the paragraph  
22 one concept. What about two and three?

23 MR. KILPATRICK: Two I cannot agree to. Whatever  
24 the time limits are that exist are the time limits that  
25 exist, and if they've expired, they've expired. I do not

1 have authority from the client to waive any applicable  
2 statutes of limitation because, in essence, what that would  
3 do would give the ability to, once again, visit the Title VII  
4 action. If, indeed, those have expired, those -- again, Mr.  
5 Spicer was aware as of April that we had an argument, and the  
6 Court sua sponte raised the issue of 108(c) which gave  
7 additional time to bring that action even while this was  
8 pending. I simply am without authority. I can check with  
9 the client, but -- to see if they would be willing to do  
10 that.

11 THE COURT: Well, where do you want the Title VII  
12 federal discrimination claims statute of limitations issue to  
13 be litigated? You don't want that litigated in this court?  
14 You want to litigate that in some state court? And is that  
15 going to be a problem for the state court saying, "Well, hey,  
16 you know, this is bound up in the effect of -- I mean this  
17 ought to be decided by the bankruptcy judge," is what that  
18 judge is going to say --

19 MR. KILPATRICK: Well --

20 THE COURT: -- right?

21 MR. KILPATRICK: Why don't we reserve the issue if  
22 there is a -- I think that any action that should -- that  
23 would be brought would be brought under the Elliott-Larsen  
24 Act in state court. Reserve the issue of the Title VII  
25 action until the adjourned date for the hearing on this claim

1 objection.

2 THE COURT: So the debtor would go forward only on  
3 an Elliott-Larsen Act claim in litigation and --

4 MR. KILPATRICK: Or if he wants to file -- if he  
5 wants to file suit here on the Title VII action, that'll be  
6 fine. Again, I don't have -- again, I'm without authority.  
7 I'm without authority to waive statutes of limitation, and  
8 that's something that I would have to get client consent on.  
9 Otherwise I'd be in trouble.

10 THE COURT: Well, it seems to me this Court needs to  
11 decide --

12 MR. KILPATRICK: The Title VII action?

13 THE COURT: -- the statute of limitations issues  
14 that you have argued in your briefs --

15 MR. KILPATRICK: That's correct.

16 THE COURT: -- because they are bound up and  
17 affected by issues of federal bankruptcy law and federal law,  
18 including the federal law regarding tolling that may come up  
19 that I was going to ask you about if this went forward on a  
20 disputed basis today not too much unlike what -- the  
21 discussion I had with Mr. Simon when he was representing the  
22 city in the last hearing that we had on the objection to the  
23 city's claim -- the city's objection to claim of Richard  
24 Hall. I don't know if you've read the transcript of that  
25 hearing or not, but it was -- some of the same questions or



1 issues arise. It's a little different in this matter. I  
2 understand that. You've got an argument that Mr. Simon did  
3 not have in the Richard Hall matter that you're making as to  
4 why you think the discharge injunction under the confirmed  
5 plan under the statute was modified to permit Mr. Spicer here  
6 to file his Title VII claim long ago, and he hasn't done it.  
7 In the Hall situation the city didn't really have an  
8 argument. They weren't making an argument to that effect  
9 because I think Hall had not gone through this ADR procedure,  
10 which is sort of the basis for you arguing about this  
11 discharge injunction here, but it seems to me this Court  
12 needs to decide that issue rather than some nonbankruptcy  
13 court, so -- if it's to be ruled on rather than resolved by  
14 some sort of agreement here between the parties, so I guess  
15 perhaps what that means is that you can see whether you or  
16 your client wants to waive that argument and that issue or  
17 not, and if they don't, then we'll tee it up, and I'll rule  
18 on it. Perhaps you should see about that -- have a chance to  
19 see about that before we tee it up and I rule on it rather  
20 than trying to do that today, but I don't know. Did you want  
21 to say anything else about that piece of this?

22 MR. KILPATRICK: No. No, your Honor. Again, that's  
23 one part that I do have to get client consent on, and I  
24 will --

25 THE COURT: All right.

1 MR. KILPATRICK: And I'm aware of the Hall  
2 proceeding and the discussions, and I will share those with  
3 the client as well.

4 THE COURT: Okay. As I said, there's a transcript  
5 even of the hearing -- the last hearing I had with -- on the  
6 Hall matter in July on file, and I didn't get to the point of  
7 ruling. I think I was going to rule on the Hall matter in a  
8 bench opinion on August 5, but before we got to that, the  
9 stipulation was entered and the order was entered resolving  
10 the Hall piece of -- issues, so I didn't rule on that issue.  
11 Well, and then I assumed you would like something like  
12 paragraph three in the Hall order put in any order that's --  
13 regarding Mr. Spicer.

14 MR. KILPATRICK: Correct.

15 THE COURT: Well, so is this something that I should  
16 give you an opportunity to talk to your client about and you  
17 and Mr. Spicer to talk about, see if you can work out an  
18 agreed order on this?

19 MR. KILPATRICK: Yes, your Honor. I think that  
20 would probably be the best thing.

21 THE COURT: You know, I don't like to keep --

22 MR. KILPATRICK: I don't --

23 THE COURT: -- dragging this out, but, you know, we  
24 might be on the verge of some sort of --

25 MR. KILPATRICK: Resolution.

1 THE COURT: -- agreed resolution of this -- of where  
2 this should go exactly. Well, so I think I'll do that. How  
3 much time? That means I'm going to have to set an  
4 adjourned -- another adjourned -- or a further hearing on  
5 this.

6 MR. KILPATRICK: My October is horrible. I'm at the  
7 Advisory Committee on Bankruptcy Rules, the National  
8 Bankruptcy Conference, and three meetings in Washington in  
9 October. The next time I'm back will be the beginning of  
10 November.

11 THE COURT: Well, although you can see if you can  
12 get this resolved much sooner than that, of course.

13 MR. KILPATRICK: I'm going to try to. I'm going to  
14 try to resolve it as we walk out of here.

15 THE COURT: Okay. Subject to you getting authority  
16 from your client; right?

17 MR. KILPATRICK: That's correct, your Honor.

18 THE COURT: Well, if I even try to adjourn it a  
19 week, you'd probably be at the NCBJ meeting next Wednesday.

20 MR. KILPATRICK: The NCBJ and then the Federal Rules  
21 Committee. The Advisory Committee on Bankruptcy Rules meets  
22 the end of next week.

23 THE COURT: So the 30th, a week from today, you're  
24 not available?

25 MR. KILPATRICK: I'm not, your Honor.

1           THE COURT: No. All right. So then you're saying  
2 you jump in -- we jump into November?

3           MR. KILPATRICK: Please.

4           THE COURT: November 4 is the first Wednesday in  
5 November. Are you available that day for a hearing at -- I  
6 guess we would make this 1:30 p.m. on -- well, actually, we'd  
7 need to make this later in the day for Mr. Spicer's benefit  
8 probably again for another 4:30 deal.

9           MR. KILPATRICK: Your Honor, I'm the chair of the  
10 Merit Selection Committee, and those are the days for our  
11 interviews, the 3rd and the 4th.

12          THE COURT: Oh, okay. The 11th is the next  
13 Wednesday. That's the Veterans Day holiday, so there's no  
14 court that day. The 18th at 1:30 --

15          MR. KILPATRICK: That would be fine.

16          THE COURT: -- of November?

17          MR. KILPATRICK: That would be fine, your Honor.

18          THE COURT: At 4:30, rather. I'm sorry. 4:30. Mr.  
19 Spicer, you heard the discussion. I'm going to set a further  
20 hearing date but with the hope that you and Mr. Kilpatrick  
21 and his client will be able to work out a resolution that  
22 will make it unnecessary for you to come back for this  
23 further hearing, but in case you're not able -- the parties  
24 are not able to do that, then we're going to need to have a  
25 further hearing. I've suggested November 18 at -- if you

1 still need a late in the afternoon time like we did today --

2 MR. SPICER: I would, your Honor.

3 THE COURT: -- because of your work schedule, I can  
4 do that. We can make it 4:30 p.m. again. Does that work?

5 MR. SPICER: Yes, sir.

6 THE COURT: So if a further hearing does have to go  
7 forward, you can make it on November 18 at 4:30?

8 MR. SPICER: Yes, sir.

9 THE COURT: All right. We'll do that November 18 at  
10 4:30, but, you know, again, with the hope that the parties  
11 can reach a resolution -- an agreed resolution as to exactly  
12 how they're going to go forward to liquidate this claim, so  
13 is there anything else that we need to talk about today then  
14 on this, Mr. Kilpatrick?

15 MR. KILPATRICK: No, your Honor.

16 THE COURT: Mr. Spicer, did you want to say anything  
17 further?

18 MR. SPICER: No, sir, your Honor.

19 THE COURT: All right. Well, I will -- we'll do  
20 that. We'll proceed on this basis, and, you know, if the  
21 parties can reach an agreement to whatever extent, you'll  
22 file a stipulation and submit an order as soon as possible,  
23 and I'll --

24 MR. KILPATRICK: I will work to get --

25 THE COURT: -- be happy to look at it.

1           MR. KILPATRICK: I'll work to get this resolved,  
2 your Honor.

3           THE COURT: Great. Okay. Well, thank you. Thank  
4 you both.

5           MR. SPICER: Thank you.

6           MR. KILPATRICK: Thank you, your Honor.

7           THE COURT: All rise. Court is adjourned.

8           (Proceedings concluded at 4:59 p.m.)

## INDEX

WITNESSES:

None

EXHIBITS:

None

I certify that the foregoing is a correct transcript from the sound recording of the proceedings in the above-entitled matter.

/s/ Lois Garrett

September 28, 2015

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Lois Garrett